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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-893

Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp ("shrimp") from the People's Republic of China ("PRC"), covering the period of review ("POR") from February 1, 2012, through January 31, 2013. As discussed below, the Department preliminarily determines that Zhanjiang Newpro Foods Co., Ltd. ("Newpro"), and Hilltop International ("Hilltop") failed to cooperate to the best of their ability in this review. Accordingly, the Department is finding Newpro and Hilltop are part of the PRC-wide entity to which we are applying adverse facts available ("AFA"), as discussed below. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: Insert date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Kabir Archuleta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.¹ The product is currently classified under the following Harmonized Tariff Schedule of the United States (“HTSUS”) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description, available in the Preliminary Decision Memorandum, remains dispositive.

Tolling of Deadlines for Preliminary Determination

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.² Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of this review is now March 18, 2014.³

Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (“the Act”). Because Hilltop was unresponsive to the Department’s

¹ See the Decision Memorandum for Preliminary Results for the Antidumping Duty Administrative Review of Warmwater Shrimp from the People’s Republic of China,” (“Preliminary Decision Memorandum”) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with these results, for a complete description of the Scope of the Order.

² See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (October 18, 2013).

³ The deadline for the preliminary results of this review was March 17, 2014. Due to the closure of the Federal Government in Washington, DC on March 17, 2014, the Department reached this determination on the next business day (i.e., March 18, 2014). See Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended, 70 FR 24533 (May 10, 2005).

requests for information, failed to provide the requested information by the deadline, and failed to establish its eligibility for a separate rate, it is being treated as part of the PRC-wide entity. Further, Newpro notified the Department that it would no longer respond to any outstanding/additional questionnaires or participate in a verification.⁴ As such, it withheld information requested by the Department, failed to provide information by the deadlines, impeded the proceeding, and provided information that cannot be verified. Accordingly, Newpro failed to establish its eligibility for a separate rate and is being treated as part of the PRC-wide entity. As a result, the PRC-wide entity is now under review. In making our preliminary determination with respect to the PRC-wide entity, we relied on facts available and, because elements of the PRC-wide entity, Hilltop and Newpro, failed to act to the best of their ability in complying with the Department's request for information, we drew an adverse inference in selecting from among the facts otherwise available.⁵

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

⁴ See Letter to the Secretary of Commerce from Newpro "Withdrawal From Review" (February 7, 2014).

⁵ See sections 776(a) and (b) of the Act.

Preliminary Results of Review

The Department preliminarily determines that the following dumping margin exists for the period February 1, 2012, through January 31, 2013:

| Exporter | Margin |
|---|----------------|
| PRC-Wide Entity (including Hilltop International and Zhanjiang Newpro Foods Co., Ltd.) ⁶ | 112.81 percent |

Public Comment

Interested parties may submit case briefs not later than 30 days after the date of publication of this notice.⁷ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁸ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁹ Case and rebuttal briefs should be filed using IA ACCESS.¹⁰

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via IA ACCESS.¹¹ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.¹² Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to

⁶ The Department preliminarily determines that 89 PRC exporters, including Hilltop and Newpro, have not demonstrated their eligibility for separate rate status. See Appendix I and Preliminary Decision Memorandum, at 5-6.

⁷ See 19 CFR 351.309(c).

⁸ See 19 CFR 351.309(d).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ See 19 CFR 351.303.

¹¹ See 19 CFR 351.310(c).

¹² See 19 CFR 351.310(c).

those raised in the respective case briefs. Unless extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication of the final results of this review. Where assessments are based upon total facts available, including total adverse facts available, we instruct CBP to assess duties at the adverse facts available margin rate. If these preliminary results are unchanged in the final results, then the Department intends to instruct CBP to assess antidumping duties on POR entries of the subject merchandise produced or exported by the PRC-wide entity (including Hilltop and Newpro) at the rate of 112.81 percent of the entered value.¹³ The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable. The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported by companies examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject

¹³ See 19 CFR 351.212(b)(1). The Department preliminarily determines that an importer-specific adjustment of the assessment rate for certain entries on shipments made by Newpro (which we preliminarily determine to be part of the PRC-wide entity) is warranted given the facts uncovered in this review. For a full description of this issue and the resultant adjustment, see the Preliminary Decision Memorandum and the Memorandum to the File from Kabir Archuleta, Senior International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V “Administrative Review of Certain Frozen Warmwater Shrimp from the People’s Republic of China: Business Proprietary Memo for the Preliminary Results,” dated concurrently with this notice.

merchandise, any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the NME-wide rate.¹⁴

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters (including Hilltop and Newpro) of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

¹⁴ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

March 18, 2014
Date

Appendix I

The PRC-wide entity includes the 89 companies currently under review that have not established their entitlement to a separate rate. Those 89 companies are:

- 1 Allied Pacific Aquatic Products Zhanjiang Co., Ltd.
- 2 Allied Pacific Food (Dalian) Co., Ltd.
- 3 Aqua Foods (Qingdao) Co., Ltd.
- 4 Asian Seafoods (Zhanjiang) Co., Ltd.
- 5 Beihai Boston Frozen Food Co., Ltd.
- 6 Beihai Evergreen Aquatic Product Science and Technology Co., Ltd.
- 7 Beihai Wanjing Marine Products Co., Ltd.
- 8 Dalian Hualian Foods Co., Ltd.
- 9 Dalian Shanhai Seafood Co., Ltd.
- 10 Dalian Taiyang Aquatic Products Co., Ltd.
- 11 Dalian Z&H Seafood Co., Ltd.
- 12 Eimskip Logistics (Qingdao) Co., Ltd.
- 13 Eimskip Logistics Inc.
- 14 EZ Logistics Inc.
- 15 EZ Logistics LLC
- 16 Fujian Chaohui International Trading
- 17 Fujian Dongshan County Shunfa Aquatic Product Co., Ltd.
- 18 Fujian Rongjiang Import and Export Co., Ltd.
- 19 Fuqing Minhua Trade Co., Ltd.
- 20 Fuqing Yihua Aquatic Food Co., Ltd.
- 21 Fuqing Yiyuan Trading Co., Ltd.
- 22 Guangdong Gourmet Aquatic Products Co., Ltd.
- 23 Guangdong Jinhang Foods Co., Ltd.
- 24 Guangdong Shunxin Sea Fishery Co., Ltd.
- 25 Guangdong Wanshida Holding Corp.
- 26 Guangdong Wanya Foods Fty. Co., Ltd.
- 27 Hai Li Aquatic Co., Ltd.
- 28 Hainan Brich Aquatic Products Co., Ltd.
- 29 Hainan Golden Spring Foods Co., Ltd.
- 30 Hainan Hailisheng Food Co., Ltd.
- 31 Hainan Xiangtai Fishery Co., Ltd.
- 32 Haizhou Aquatic Products Co., Ltd.
- 33 Hangzhou Tianhai Aquatic Products Co., Ltd.
- 34 Hilltop International
- 35 Hua Yang (Dalian) International Transportation Service Co.
- 36 Leizhou Beibuwan Sea Products Co., Ltd.
- 37 Longhai Gelin Seafoods Co., Ltd.
- 38 Longheng (Fuqing) Imp. & Exp. Co., Ltd.

- 39 Longsheng Aquatic Co., Ltd.
- 40 Maoming Xinzhou Seafood Co., Ltd.
- 41 Olanya (Germany) Ltd.
- 42 Qingdao Yuanqiang Foods Co., Ltd.
- 43 Rizhao Smart Foods Company Limited
- 44 Rizhao Xinghe Foodstuff Co., Ltd.
- 45 Rui'an Huasheng Aquatic Products Co., Ltd.
- 46 Savvy Seafood Inc.
- 47 Shandong Meijia Group Co., Ltd.
- 48 Shanghai Linghai Fisheries Trading Co. Ltd.
- 49 Shanghai Lingpu Aquatic Products Co., Ltd.
- 50 Shanghai Smiling Food Co., Ltd.
- 51 Shanghai Zhoulian Foods Co., Ltd.
- 52 Shantou Haiyou Aquatic Product Foodstuff Co., Ltd.
- 53 Shantou Jiazhou Foods Industry Co., Ltd.
- 54 Shantou Jin Cheng Food Co., Ltd.
- 55 Shantou Jintai Aquatic Product Industrial Co., Ltd.
- 56 Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.
- 57 Shantou Ruiyuan Industry Company Ltd.
- 58 Shantou Wanya Foods Fty. Co., Ltd.
- 59 Shantou Yuexing Enterprises Co.
- 60 Shenzhen Allied Aquatic Produce Development Ltd.
- 61 Shenzhen Yudayuan Trade Ltd.
- 62 Thai Royal Frozen Food Zhanjiang Co., Ltd.
- 63 Xiamen Granda Import & Export Co., Ltd.
- 64 Yancheng Hi-king Agriculture Developing Co., Ltd.
- 65 Yanfeng Aquatic Product Foodstuff
- 66 Yangjiang Anyang Food Co., Ltd.
- 67 Yangjiang Wanshida Seafood Co., Ltd.
- 68 Yelin Enterprise Co., Ltd.
- 69 Zhangzhou Xinwanya Aquatic Product Co., Ltd.
- 70 Zhangzhou Yanfeng Aquatic Product
- 71 Zhanjiang Bo Bo Go Ocean Co., Ltd.
- 72 Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.
- 73 Zhanjiang Fuchang Aquatic Products Co., Ltd.
- 74 Zhanjiang Go Harvest Aquatic Products Co., Ltd.
- 75 Zhanjiang Haizhou Aquatic Product Co. Ltd.
- 76 Zhanjiang Hengrun Aquatic Co., Ltd.
- 77 Zhanjiang Jinguo Marine Foods Co., Ltd.
- 78 Zhanjiang Join Wealth Aquatic Products Co., Ltd.
- 79 Zhanjiang Longwei Aquatic Products Industry Co., Ltd.
- 80 Zhanjiang Newpro Food Co., Ltd.
- 81 Zhanjiang Rainbow Aquatic Development

- 82 Zhanjiang Universal Seafood Corp.
- 83 Zhejiang Daishan Baofa Aquatic Products Co., Ltd.
- 84 Zhejiang Evernew Seafood Co., Ltd.
- 85 Zhejiang Xinwang Foodstuffs Co., Ltd.
- 86 Zhejiang Zhoufu Food Co., Ltd.
- 87 Zhoushan Corporation
- 88 Zhoushan Genho Food Co., Ltd.
- 89 Zhoushan Haiwang Seafood Co., Ltd.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Non-Market Economy (“NME”) Country Status
4. Separate Rates
5. PRC-Wide Entity
6. Use of Facts Available and Adverse Facts Available
7. Application of Total Adverse Facts Available to the PRC-Wide Entity
8. Selection of Adverse Facts Available Rate
9. Corroboration of Secondary Information
10. Preliminary Determination of No Shipments
11. Adjustment of Assessment Rate for Certain Shipments by Newpro
12. Conclusion

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